IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.8224 OF 2004

Shri Hanumant Dnyanu Shinde : Petitioner

V/s.

The State of Maharashtra & Ors. : Respondents

...

Mr.J.K.Jadhav for the petitioner.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for the respondent nos.1 to 3.

Mr.Manoj Bhatt for the respondent no.4.

Mr.Wakse for Mr.P.A.Pol for the respondent no.5.

...

CORAM : S.A. BOBDE, J.

July 20, 2005.

P.C.:

1. Rule, returnable forthwith.

The learned counsel for the respective respondents waive service of rule.

Heard by consent.

2. The petitioner has challenged the order of the Minister (Food, Civil Supplies & Consumer Protection) passed on 24.6.2004. By the said order, the Minister has allowed the respondent no.4 Rajaram Gupta and the respaondent no.5 Shivbabu Jaiswal to open new ration

shops. The only point contended on behalf of the petitioner is that in view of the judgment of a Division Bench of this Court in Writ Petition No.5091 of 2003 (Kum. Sushama Kashinath Boir v. The State of Maharashtra & Ors.) decided on 4.4.2005, the impugned allotment in respect of the respondent nos.4 and 5 is illegal since it has not been granted after following the procedure for issuing a fresh advertisement. The judgement clearly lays down that the Controlling Officer cannot grant any additional shop when there are more units than 3000, but less than 8000. The learned counsel for the petitioner appears to be right in making the submission that there are more than 8000 units in ARS no.32-E-113. However, the submission does not appear to be correct in view of the clear observation to that effect in the order of the Controller, Rations and Director, Civil Supplies dated 6.1.2004 at exh.'A' wherein it is stated that the Government had given an advertisement on 8.11.2003 for allotment of new shops at 222 places. Undisputedly, the area in which the new shops have been allotted is one of the 222 cases. It may also be noted that the petitioner's shop has not been cancelled and the petitioner is not deprived of his shop.

3. The petition is dismissed. The rule is discharged.

S.A. BOBDE, J.